

I certify that this is a copy of the authorised version of this Act as at 5 July 2024, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 5 July 2024.

K Woodward  
Chief Parliamentary Counsel  
Dated 16 July 2024



TASMANIA

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## **SURVEYORS ACT 2002**

**No. 36 of 2002**

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### **CONTENTS**

#### **PART 1 – PRELIMINARY**

1. Short title
2. Commencement
3. Interpretation

#### **PART 2 – ADMINISTRATION**

4. Functions and powers of Surveyor-General
5. Delegation by Surveyor-General
- 5A. Deputy Surveyor-General
6. Functions of Director

#### **PART 3 – REGISTRATION OF SURVEYORS**

7. Application and eligibility for registration as a surveyor
8. Registration by Surveyor-General

- 8A. Re-accreditation by prescribed institute
- 8B. Register of surveyors
- 8C. Disbursement of fees for registration as land surveyor
- 9. Particulars to be entered in register
- 10. Renewal of registration
- 10A. Refusal of renewal of registration
- 11. False or misleading statements
- 12. Cancellation or suspension of registration
- 13. Certificate of registration
- 14. Effect of mutual recognition legislation

#### **PART 4 – PRACTICE OF SURVEYORS**

##### ***Division 1 – Directions by Surveyor-General***

- 15. Directions for practice of surveying, professional development, &c.

##### ***Division 2 – Practice as registered surveyor***

- 16. Only registered land surveyors to survey land or practise as land surveyors
- 17. Only registered surveyors to practise as registered surveyors
- 18. Supervision by registered surveyor
- 19. Appellations to be used
- 20. Saving for non-registered surveyors

##### ***Division 3 – Duties of registered surveyors***

- 21. Surveys, &c., to comply with directions, &c.

##### ***Division 4 – Maintenance of standards and corrections of errors***

- 22. Survey audit
- 23. Survey investigation
- 23A. Surveyor-General may require information
- 24. Correction of survey errors
- 24A. Notification of errors and anomalies that cannot be readily corrected
- 25. Survey performance

- 26. Certification and adequacy of surveys

***Division 5 – Power to enter on land***

- 27. Power of entry on land
- 28. Damage by registered surveyor

**PART 5 – COMPLAINTS AND INVESTIGATIONS**

- 29. Power of Director to receive complaints
- 30. Investigations
- 31. Consultation regarding investigations
- 31A. Temporary prohibition from practice
- 32. Grounds for disciplinary action
- 33. Application to determine grounds for disciplinary action
- 34. Disciplinary action
- 35. Ancillary powers of Director
- 36. Contravention of order
- 37. Appeal against determination or order to magistrate
- 38. Appeals to Magistrates Court (Administrative Appeals Division)

**PART 6 – MISCELLANEOUS AND SUPPLEMENTAL**

- 39. Review of decisions by Minister
- 40. Survey examination
- 41. Destruction of, damage to, &c., survey marks
- 42. Misleading survey marks
- 43. Protection from liability
- 44. Prosecution for offence
- 45. Evidentiary value of certificates
- 46. Regulations
- 46A. Repeal of regulations postponement
- 47. Savings and transitional
- 48. Administration of Act
- 49. . . . . .

**SCHEDULE 1 – SAVINGS AND TRANSITIONAL PROVISIONS**





## **SURVEYORS ACT 2002**

**No. 36 of 2002**

**An Act to repeal the *Land Surveyors Act 1909* and provide for the registration of surveyors with diverse specialist competencies, to regulate the practice of registered surveyors engaged in surveys authorised or required under any enactment and to provide for related matters**

**[Royal Assent 14 November 2002]**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### **PART 1 – PRELIMINARY**

#### **1. Short title**

This Act may be cited as the *Surveyors Act 2002*.

## **2. Commencement**

This Act commences on a day to be proclaimed.

## **3. Interpretation**

(1) In this Act, unless the contrary intention appears –

*authorised officer* means the Director or a person declared to be, or appointed as, an authorized officer under the *Consumer Affairs Act 1988*;

*Board* means the Surveyors' Board as constituted under the repealed Act immediately before the commencement day;

*commencement day* means the day fixed under section 2;

*court* means the Magistrates Court;

*Director* means the Director of Consumer Affairs;

*document* includes –

- (a) a book, plan, paper, parchment or other material on which there is an image or writing or printing, or on which there are marks, symbols or perforations having a meaning for persons qualified to interpret them; and

*Surveyors Act 2002*  
*Act No. 36 of 2002*

Part 1 – Preliminary

s. 3

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- (b) a disk, tape, paper or other device from which images, sounds or messages are capable of being reproduced;

***institution*** means an institution or association representative of persons engaged in one or more survey disciplines which requires that its members comply with established institutional standards of ethical conduct and professional best practice;

***land*** includes messuages, tenements and hereditaments, corporeal and incorporeal, of every kind and description (whatever may be the estate or interest in them);

***mutual recognition legislation*** means the *Mutual Recognition Act 1992* of the Commonwealth, the *Mutual Recognition (Tasmania) Act 1993* of Tasmania or the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth;

***prescribed institute*** means the institute prescribed as having responsibility for the training, examination and accreditation of persons seeking to establish their competency to practise as a registered land surveyor under this Act;

***published*** means –

- (a) in relation to a publication under section 34(4A), published in such

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 3

Part 1 – Preliminary

---

a manner as the Director thinks fit; and

- (b) in relation to all other matters under this Act, published in such a manner, whether by advertisement or otherwise, as the Surveyor-General thinks fit;

***register*** means the register of surveyors kept under this Act;

***registered land surveyor*** means a person authorised by registration under this Act to undertake a survey of land;

***registered surveyor*** means a person who is registered as a surveyor under this Act but, for the purpose of Part 4, does not include a person whose registration is suspended;

***registering authority*** means a person or body having authority to require a survey to be carried out for a statutory purpose;

***regulations*** means regulations made and in force under this Act;

***repealed Act*** means the *Land Surveyors Act 1909*;

***survey*** means the definition, redefinition, measurement, interpretation, marking or documentation of the geographic position, dimension, extent or relativity of points, lines and things on, above or



*Surveyors Act 2002*  
*Act No. 36 of 2002*

Part 1 – Preliminary

s. 3

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below the surface of the earth, for any purpose authorised by any Act;

**survey mark** means any mark established by or on behalf of a surveyor which is used to identify and define any point or line of any survey and is –

- (a) cut, etched, stamped or otherwise attached to, or placed in or on, any timber, stone, masonry or other material; or
- (b) placed in or on the ground;

**survey of land** includes a survey of land undertaken to re-mark boundaries of land originally surveyed for a purpose authorised by any Act;

**surveyor** means a person who has acquired the minimum surveying qualifications, skills or experience necessary for membership of a relevant and nationally recognised institution;

**Surveyor-General** means the person appointed under section 3A of the *Survey Co-ordination Act 1944*;

**trim** means to cut, remove or otherwise modify any part of a tree or bush, only to the minimum amount necessary to accomplish a survey.

- (2) For the purposes of the definition of “land” in subsection (1), a person who has a licence to

*Surveyors Act 2002*  
*Act No. 36 of 2002*

**s. 3**

Part 1 – Preliminary

---

enter or remain on land is taken to have an interest in the land.

## **PART 2 – ADMINISTRATION**

### **4. Functions and powers of Surveyor-General**

The Surveyor-General has the following functions and powers for the purposes of this Act:

- (a) to maintain the register of surveyors and their specialist competencies as provided in Part 3;
- (b) to consult with any person or body that represents surveyors in Tasmania, and to liaise and enter into arrangements with any person or body that, in Australia or elsewhere, is concerned with surveyors and the practice of surveying, for the purpose of improving or reviewing –
  - (i) the technical specifications and standards applicable to the practice of surveying; and
  - (ia) the requirements for eligibility for registration as a land surveyor; and
  - (ii) the Surveyor-General’s functions and powers under this Act;
- (c) to issue directions as to the minimum technical specifications and standards to be observed in the conduct of any surveys required by law and, for any such survey carried out by a registered

surveyor, to monitor compliance with those directions as provided in Part 4;

- (d) to issue directions as to the types of surveys of land that may be exempt from the requirements of this Act;
- (e) to issue directions as to the minimum level of land survey-related activity or professional development required for registration as a land surveyor.

## **5. Delegation by Surveyor-General**

The Surveyor-General may delegate all or any of the Surveyor-General's functions and powers under this Act to a State Service officer who is a registered land surveyor.

### **5A. Deputy Surveyor-General**

- (1) The Minister may appoint a State Service officer or State Service employee to be Deputy Surveyor-General and that person may hold that office in conjunction with State Service employment.
- (2) The Deputy Surveyor-General so appointed may, in the absence of the Surveyor-General, perform any of the functions or duties or exercise any of the powers of the Surveyor-General under this Act.

**6. Functions of Director**

The Director has the functions of receiving complaints, conducting investigations and taking disciplinary action as provided by Part 5.

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 7

Part 3 – Registration of Surveyors

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**PART 3 – REGISTRATION OF SURVEYORS**

**7. Application and eligibility for registration as a surveyor**

- (1) A person, on payment of the prescribed fee, may apply to the Surveyor-General to be registered as a surveyor.
- (2) A person is eligible to be registered as a land surveyor if –
  - (a) the person –
    - (i) was a surveyor registered under the repealed Act immediately before the commencement day; or
    - (ii) has been accredited by the prescribed institute as having the educational qualifications and practical training required for the practice of land surveying as prescribed in the regulations; or
    - (iii) is entitled to be registered as a land surveyor under mutual recognition legislation; and
  - (b) the person –
    - (i) has undertaken such land survey-related activities or professional development as may be prescribed in the directions issued under Part 4; and

*Surveyors Act 2002*  
*Act No. 36 of 2002*

Part 3 – Registration of Surveyors

s. 8

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- (ii) is capable of carrying out the practice of land surveying in Tasmania in accordance with all statutory requirements.
- (3) A person is eligible to be registered as a surveyor, other than a land surveyor, if the person has competency accreditation which is recognised by a relevant institution as satisfying national competency standards for professional surveyors practising other than in land surveying.

**8. Registration by Surveyor-General**

- (1) The Surveyor-General may –
- (a) require an applicant for registration to produce any documents or other information that the Surveyor-General considers necessary to decide the application; and
  - (b) make any inquiries that the Surveyor-General reasonably needs to decide the application.
- (2) The Surveyor-General must register a person who applies for registration if the person is eligible for registration and the requirements of this Act relating to the application have been met.
- (3) The Surveyor-General must refuse to register a person who applies for registration if the person is not eligible for registration or the requirements

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 8A

Part 3 – Registration of Surveyors

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of this Act relating to the application have not been met.

**8A. Re-accreditation by prescribed institute**

- (1) If an applicant satisfies the requirements of section 7(2)(a), but is unable to satisfy the Surveyor-General in accordance with section 7(2)(b), the applicant may apply to the prescribed institute for re-accreditation.
- (2) If the prescribed institute is satisfied that the applicant has sufficient knowledge and skills equivalent to that provided by the professional training referred to in the regulations, the institute may accredit the applicant.
- (3) Accreditation under this section is sufficient to satisfy the Surveyor-General for the purposes of section 7(2)(b).

**8B. Register of surveyors**

- (1) The Surveyor-General must keep a register of surveyors.
- (2) The register is to provide for –
  - (a) the mandatory registration of a surveyor intending to practise as a land surveyor; and
  - (b) the voluntary registration of a surveyor intending to practise other than as a land surveyor.



*Surveyors Act 2002*  
*Act No. 36 of 2002*

Part 3 – Registration of Surveyors

s. 8C

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- (3) The register may be kept in any form, including electronic form, that the Surveyor-General approves.
- (4) The Surveyor-General must make the register available to the public and may give to any person a copy of part of, or an entry from, the register certified by the Surveyor-General to be a true copy.

**8C. Disbursement of fees for registration as land surveyor**

- (1) Any funds received by the Surveyor-General in a financial year in respect of an application for registration as a land surveyor, other than any fees for late applications, are to be provided to the prescribed institute by the next 31 July.
- (2) The funds paid to the prescribed institute are to be applied in the payment of any expenses necessarily incurred by the institute in undertaking its responsibilities under this Act.
- (3) By not later than 31 September each year, the prescribed institute is to provide the Surveyor-General with an account of the expenditure of the funds provided to it in the preceding financial year.

**9. Particulars to be entered in register**

- (1) The Surveyor-General must enter in the register the following particulars in respect of a

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 9

Part 3 – Registration of Surveyors

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registered surveyor, whether a land surveyor or not:

- (a) his or her name;
  - (b) the address of each place in Tasmania where the surveyor carries on the practice of surveying or, if the surveyor has no such address, his or her home address;
  - (ba) his or her email address;
  - (c) a registration number allotted to the surveyor by the Surveyor-General;
  - (d) the date of his or her initial registration;
  - (e) the date of each successive renewal of such registration;
  - (f) any specialist competency that the surveyor relied on for registration.
- (2) The Surveyor-General must –
- (a) on the application of a registered surveyor and subject to authentication of any documents provided, enter in the register the particulars of the surveyor's membership of any relevant institution; and
  - (b) delete those details, on the application of that surveyor.
- (3) The Surveyor-General must –

*Surveyors Act 2002*  
*Act No. 36 of 2002*

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- (a) if the name of a registered surveyor is removed from the register in accordance with section 12(da) or (e), and that surveyor is subsequently recorded on the register, make a note in the register, in relation to the surveyor, of the date and particulars of each disciplinary action that resulted in the previous removal of the name of the surveyor from the register; and
  - (b) make a note in the register of the date and particulars of each disciplinary action, other than a disciplinary action referred to in paragraph (a), determined or ordered under this Act in relation to a registered surveyor; and
  - (c) remove a note made under paragraph (b) as soon as practicable after the end of the period of 3 years commencing on the date on which it was made.
- (3A) Subsection (3)(c) does not prevent the Surveyor-General from removing a note made under subsection (3)(b) before the expiry of the period referred to in subsection (3)(c).
- (4) A registered surveyor must notify the Surveyor-General of a change in any of the particulars referred to in subsection (1) within one month of the change occurring.
- (5) . . . . .

**10. Renewal of registration**

- (1) Before 31 December in each year, a registered surveyor may make application to the Surveyor-General for renewal of registration to practise as a registered surveyor for the following year.
- (2) An application for renewal must be accompanied by whatever documents may be necessary to confirm the applicant's continuing eligibility for registration under this Act.
- (3) The provisions of this Act relating to an application for registration also apply to an application for renewal of registration.

**10A. Refusal of renewal of registration**

- (1) The Surveyor-General may refuse to renew a surveyor's registration if the surveyor fails –
  - (a) to correct a survey within 3 months of a request being made in accordance with section 24(1); or
  - (b) to pay all the costs of a correction made in accordance with section 24(2) or notification made in accordance with section 24(4); or
  - (c) to notify all relevant parties in accordance with section 24(3); or
  - (d) to pay all the costs required to be paid under section 34(1)(h); or

- (e) to be re-accredited following advice from the Surveyor-General in accordance with section 25(5).
- (2) On the correction of a failure referred to in subsection (1), the surveyor may apply for a renewal of registration under section 10.

### **11. False or misleading statements**

- (1) A person must not, in or in respect of an application for registration –
  - (a) state anything that is false or misleading in a material particular; or
  - (b) omit from a statement anything without which the statement is misleading in a material particular.

Penalty: Fine not exceeding 40 penalty units.

- (2) A person must not give to the Surveyor-General, in respect of an application for registration, a document containing information that is false or misleading in a material particular.

Penalty: Fine not exceeding 40 penalty units.

### **12. Cancellation or suspension of registration**

The Surveyor-General must remove from the register the name of any surveyor –

- (a) who has died; or

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 13

Part 3 – Registration of Surveyors

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- (b) who has requested in writing that the registration be cancelled; or
- (c) who has failed to apply for renewal of registration before the expiration of the period of 3 months commencing on the due date for renewal; or
- (d) who in, or in respect of, an application for registration has provided any false or misleading statement; or
- (da) whose registration as a land surveyor has been suspended or cancelled as a consequence of disciplinary proceedings in a jurisdiction in which mutual recognition legislation applies; or
- (e) whose registration has been suspended or cancelled as a consequence of disciplinary proceedings under this Act.

**13. Certificate of registration**

The Surveyor-General must, on registration and on each application for renewal, issue to every registered surveyor applying for it a certificate confirming the details of that surveyor's current registration status.

**14. Effect of mutual recognition legislation**

Nothing in this Part derogates from the effect of mutual recognition legislation and an appeal from a decision of the Surveyor-General under

*Surveyors Act 2002*  
*Act No. 36 of 2002*

Part 3 – Registration of Surveyors

**s. 14**

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this Part may be brought as provided by  
legislation.

**PART 4 – PRACTICE OF SURVEYORS**

***Division 1 – Directions by Surveyor-General***

**15. Directions for practice of surveying, professional development, &c.**

- (1) The Surveyor-General may issue directions as to the technical specifications and standards to be observed in the conduct of any survey for any statutory purpose, including, for example –
  - (a) the preparation of plans of survey and supporting documents; and
  - (b) the field procedures and practices to be observed in the conduct of surveys; and
  - (c) the supervision of persons assisting registered surveyors in the conduct of surveys; and
  - (d) the nature and position of survey marks; and
  - (e) the achievement of accuracy in surveying; and
  - (f) the form of certification to be provided by a registered surveyor on completion of a survey.
- (1A) The Surveyor-General may issue directions as to the types of surveys of land that may be exempt from the requirements of this Act.



*Surveyors Act 2002*  
*Act No. 36 of 2002*

- (1B) The Surveyor-General may issue directions as to the minimum level of land survey-related activity or professional development required for registration of land surveyors.
- (2) A direction may provide that –
- (a) the Surveyor-General may exempt a registered surveyor from a requirement specified in the direction; and
  - (b) the exemption may be subject to conditions decided by the Surveyor-General.
- (3) An exemption that is subject to a condition does not have effect if the condition is not complied with.
- (4) Before issuing a direction under subsection (1) or (1A), the Surveyor-General must invite submissions and consult on the proposed direction and seek agreement with –
- (a) the Head of Agency of the department responsible to the Minister for the administration of any enactment under which the survey is required; and
  - (b) all institutions that, in Tasmania, represent surveyors; and
  - (c) other entities that appear to the Surveyor-General to have a relevant interest in the proposed direction.

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 15

Part 4 – Practice of surveyors

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- (4A) Before issuing a direction under subsection (1B), the Surveyor-General must invite submissions and consult on the proposed direction and seek agreement with –
- (a) all institutions that, in Tasmania, represent land surveyors; and
  - (b) other entities that appear to the Surveyor-General to have a relevant interest in the proposed direction.
- (5) Where agreement cannot be reached between the Surveyor-General and a relevant institution or registering authority as to the nature of any proposed new or amended specifications, standards or requirements, the Surveyor-General –
- (a) must refer the matter to the Minister for determination; and
  - (b) must notify the parties to the disagreement of his or her intention to do so.
- (6) For the purposes of subsection (5), the Surveyor-General must provide a report and recommendation in writing to the Minister including –
- (a) details of the new or amended specifications, standards or requirements recommended by the Surveyor-General; and

*Surveyors Act 2002*  
*Act No. 36 of 2002*

Part 4 – Practice of surveyors

s. 16

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- (b) details of all consultation undertaken; and
  - (c) details of the specific matters of disagreement; and
  - (d) copies of all submissions made by the interested parties relevant to the issues in contention.
- (7) The Minister, on considering the report and submissions and making such further inquiry as he or she thinks fit, may approve, modify or reject the recommended specifications, standards or requirements and require the Surveyor-General to issue a direction accordingly.
- (8) The Minister's decision is final.
- (9) Notwithstanding subsections (4), (4A), (5), (6), (7) and (8), the Surveyor-General may make amendments of a minor or clerical nature, to directions issued under this section, following consultation with only those entities that the Surveyor-General deems appropriate.

*Division 2 – Practice as registered surveyor*

**16. Only registered land surveyors to survey land or practise as land surveyors**

- (1) A person who is not a registered land surveyor must not carry on business or hold himself or herself out as a land surveyor or registered land surveyor.

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 17

Part 4 – Practice of surveyors

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Penalty: Fine not exceeding 200 penalty units and a further penalty not exceeding 5 penalty units for each day during which the offence continues after conviction.

- (2) A person who is not a registered land surveyor, or acting under the supervision of a registered land surveyor, must not survey land.

Penalty: Fine not exceeding 200 penalty units.

- (3) A person who is not a registered land surveyor must not give a certificate that under any law is required to be given by a registered land surveyor.

Penalty: Fine not exceeding 200 penalty units.

- (4) In this section,

*survey* includes deciding, for fee or reward, whether improvements are, or are not, within the boundaries of any land.

**17. Only registered surveyors to practise as registered surveyors**

- (1) A person who is not a registered surveyor must not carry on business or hold himself or herself out as a registered surveyor.

Penalty: Fine not exceeding 200 penalty units and a further penalty not exceeding 5 penalty units for each day during which the offence continues after conviction.

*Surveyors Act 2002*  
*Act No. 36 of 2002*

Part 4 – Practice of surveyors

s. 18

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- (2) A person who is not a registered surveyor must not give a certificate that under any law is required to be given by a registered surveyor.

Penalty: Fine not exceeding 200 penalty units.

**18. Supervision by registered surveyor**

- (1) Any part of a survey authorised or required under any enactment may be carried out by a person acting under the supervision of a registered surveyor.
- (2) For the purpose of subsection (1), a registered surveyor must exercise such oversight over the work of any person under supervision as may be necessary to ensure that the work is completed in accordance with this and any other Act.

**19. Appellations to be used**

- (1) Only a person who is registered as a land surveyor as provided in section 7(2) may use the appellations “Registered Land Surveyor” or “Land Surveyor”.

Penalty: Fine not exceeding 200 penalty units.

- (2) Only a person who is registered and has competency accreditation which is recognised as provided in section 7(3) may use an appellation that includes reference to that competency such as “Registered Engineering Surveyor”, “Registered Mining Surveyor” or “Registered Hydrographic Surveyor”.

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 20

Part 4 – Practice of surveyors

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Penalty: Fine not exceeding 200 penalty units.

- (3) Only a person who is registered as a surveyor as provided in section 8 or otherwise under this Act may use the appellation “Registered Surveyor” and the use of the appellation must include reference to the specialised professional survey competencies for which the surveyor is registered.

Penalty: Fine not exceeding 200 penalty units.

**20. Saving for non-registered surveyors**

Nothing in this Act prevents a person who is not registered as a surveyor from practising as a surveyor, otherwise than as a land surveyor, so long as the person does not hold himself or herself out to be a registered surveyor.

*Division 3 – Duties of registered surveyors*

**21. Surveys, &c., to comply with directions, &c.**

A registered surveyor must ensure that a survey carried out, and a plan with all supporting documents prepared, by or under his or her supervision –

- (a) complies with all applicable directions under section 15; and
- (b) is endorsed with an annotation summarising all applicable exemptions and setting out sufficient particulars to

enable the exemptions and any relevant conditions to be identified.

Penalty: Fine not exceeding 100 penalty units.

***Division 4 – Maintenance of standards and corrections of errors***

**22. Survey audit**

- (1) The Surveyor-General may instruct an appropriately qualified and registered surveyor, as an inspecting surveyor, to conduct an audit of any survey carried out under any Act by a registered surveyor, to confirm its compliance with all relevant requirements.
- (2) Where an audit discloses an error or deficiency in a survey, the Surveyor-General must inform the surveyor responsible of –
  - (a) the results of the audit; and
  - (b) any action that may be required to ensure that the survey to which the audit relates is correct and complies with all relevant requirements.

**23. Survey investigation**

- (1) If two or more registered surveyors, or a registered surveyor and a registering authority, are unable to agree as to –
  - (a) the adequacy or accuracy of a survey; or

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 23A

Part 4 – Practice of surveyors

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(b) the compliance of a survey with the relevant requirements –

all parties to the disagreement must submit a report on the matter of the disagreement to the Surveyor-General.

- (2) The Surveyor-General must investigate a reported error or anomaly or may instruct an appropriately qualified and registered surveyor, as an inspecting surveyor, to conduct the investigation.
- (2A) The Surveyor-General may initiate an investigation, or instruct an appropriately qualified registered surveyor, as an inspecting surveyor, to conduct an investigation, based on any information that the Surveyor-General receives through any means.
- (3) On completion of the investigation, the Surveyor-General must inform the parties to the disagreement, and those responsible for the surveys under investigation, of –
- (a) the results of that investigation; and
  - (b) the action required to ensure that the survey to which the investigation relates is correct and complies with all requirements.

**23A. Surveyor-General may require information**

- (1) The Surveyor-General may require a person who is in a position to provide information relevant to



an investigation under section 23 to answer questions or provide any record or other information relevant to that investigation.

- (2) A person must not fail to answer questions or provide any information or record when required to do so.

Penalty: Fine not exceeding 40 penalty units.

- (3) A person must not, in answering a question or providing any information or record under this section –

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter the statement is false or misleading.

Penalty: Fine not exceeding 40 penalty units.

#### **24. Correction of survey errors**

- (1) Any registered surveyor found to have made an error in any survey carried out under any Act must, at the request of the Surveyor-General, correct the error at his or her own expense.
- (2) If a registered surveyor fails to correct an error within 3 months of being informed of that error by the Surveyor-General, the error may be corrected by an inspecting surveyor instructed by the Surveyor-General, and the surveyor responsible is liable to pay the cost of that correction.

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 24A

Part 4 – Practice of surveyors

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- (3) Where the correction of an error in a survey of land requires a correction of the boundaries of a property registered under the *Land Titles Act 1980*, the registered land surveyor must notify all parties with an interest in the affected land of the correction of the error and the steps required to correct the affected land title, within 3 months of the correction of the error being made.
- (4) If a registered land surveyor fails to notify all parties in accordance with subsection (3), the notification may be made by an inspecting surveyor instructed by the Surveyor-General, and the surveyor responsible is liable to pay the cost of that notification.

**24A. Notification of errors and anomalies that cannot be readily corrected**

- (1) Where a survey investigation reveals an error or anomaly in a land boundary but that error or anomaly cannot be readily corrected, the Surveyor-General is to publish details of the error or anomaly in such a way as is reasonably accessible to any registered land surveyor.
- (2) A registered land surveyor is to take into account any error or anomaly of which he or she has been notified under subsection (1) in any future dealings with the relevant boundary.

**25. Survey performance**

- (1) The Surveyor-General must –

*Surveyors Act 2002*  
*Act No. 36 of 2002*

Part 4 – Practice of surveyors

s. 25

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- (a) maintain a record of the conduct and outcome of a survey audit and survey investigation which may be carried out under this Division; and
  - (b) maintain, for each registered surveyor, the results of survey examinations conducted by a registering authority as provided in section 40.
- (2) For the purposes of subsection (1), records of survey examinations, audits and investigations may be kept in any form, including electronic form, that the Surveyor-General determines.
- (3) The Surveyor-General may from time to time provide each registered surveyor with advice as to the current status of his or her records of survey examinations, audits and investigations.
- (4) Where, on the application in a particular year for the renewal of a land surveyor's registration, the Surveyor-General finds that the land surveyor's last 3 audits do not comply with the relevant statutory requirements, the land surveyor's registration may nevertheless be renewed for the following year.
- (5) Where a land surveyor's registration is renewed for a year in accordance with subsection (4), the Surveyor-General is to advise the land surveyor –
  - (a) of the details of the non-compliances with the relevant statutory requirements; and

- (b) that the renewal of the land surveyor's registration for the year following that year is dependent on the land surveyor's re-accreditation by the prescribed institute.

## **26. Certification and adequacy of surveys**

- (1) A survey carried out for any statutory purpose by, or under the supervision of, a registered surveyor must be certified correct by that surveyor before being lodged for registration or acted on.
- (2) If any such survey is conducted wholly or in part by a person under the supervision of a registered surveyor, the supervising surveyor remains responsible for the adequacy of the survey as certified.
- (3) A registered surveyor must implement, or ensure the implementation of, any checking procedures necessary to confirm the technical accuracy and adequacy of the survey as certified.
- (4) The certification is to be in accordance with the regulations or directions issued under section 15 and is to confirm that the survey and associated documentation complies with all relevant requirements, including survey directions issued by the Surveyor-General, and is correct for the purpose required.

***Division 5 – Power to enter on land***

**27. Power of entry on land**

- (1) For the purpose of conducting a survey, a registered surveyor or a person assisting a registered surveyor may, at any reasonable time, in accordance with this section –
- (a) enter on any land, including land that is not to be surveyed; and
  - (b) open a door, gate or fence; and
  - (c) place a survey mark on the ground of any land entered; and
  - (d) enter any building; and
  - (da) break up the surface of any land, whether paved or not, to search for survey marks or physical objects; and
  - (e) trim a tree or bush obstructing a survey.
- (2) Nothing in subsection (1)(e) authorises a registered surveyor to trim a tree or bush if, in so doing, he or she would contravene or fail to comply with –
- (a) any other Act or law; or
  - (b) a permit granted under any other Act; or
  - (c) a condition attaching to any other authority so granted.

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 27

Part 4 – Practice of surveyors

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- (3) A registered surveyor or a person assisting a registered surveyor may enter on land that is not owned by the person for whom the survey is being conducted only if, before entering, the surveyor has given to the owner of the land reasonable notice, oral or written, of the surveyor's intention to enter on the land.
- (4) A registered surveyor or a person assisting a registered surveyor may enter a building or part of a building that is not occupied by the person for whom the survey is being conducted only –
  - (a) if the occupier has consented, orally or in writing, to the entry; or
  - (b) in accordance with an order of a magistrate.
- (5) A registered surveyor or a person for whom a survey is being, or is to be, conducted may apply to a magistrate for an order under subsection (4)(b).
- (6) A person must not, without reasonable excuse, hinder or obstruct a registered surveyor, or a person assisting a registered surveyor, in the exercise of the surveyor's powers under subsection (1).

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both, and a further penalty not exceeding 5 penalty units for each day during which the offence continues after conviction.

**28. Damage by registered surveyor**

- (1) This section applies if a registered surveyor or a person assisting a registered surveyor damages any thing when exercising or purporting to exercise a power under section 27.
- (2) The registered surveyor or person assisting the registered surveyor must immediately give written notice of particulars of the damage to the person who appears to be the owner of the thing.
- (3) If for any reason it is not practicable to comply with subsection (2), the registered surveyor or person assisting the registered surveyor must leave the notice, in a reasonably secure way and in a conspicuous position, at the place where the damage happened.
- (4) The registered surveyor must repair the damage to the satisfaction of the owner of the thing and, if he or she fails to do so or cannot do so, is liable to pay compensation for the damage to the owner.
- (5) The registered surveyor is entitled to be reimbursed by the person for whom the survey is being conducted for any compensation payable under subsection (4) that is reasonably and necessarily caused in carrying out the survey.

**PART 5 – COMPLAINTS AND INVESTIGATIONS**

**29. Power of Director to receive complaints**

The Director may receive complaints with respect to any failure of a registered surveyor to comply with a direction under section 15 or otherwise to the conduct of registered surveyors relating to this Act.

**30. Investigations**

- (1) The Director may conduct an investigation required for the exercise of powers or the discharge of duties under this Part.
- (2) . . . . .

**31. Consultation regarding investigations**

For the purposes of this Part, the Director may consult with the Surveyor-General or his or her nominee and a registered surveyor nominated by any relevant institution.

**31A. Temporary prohibition from practice**

- (1) The Director may prohibit a registered surveyor from carrying on business as a registered surveyor if satisfied –
  - (a) that the registered surveyor has failed to comply with an order of the Director under section 34; or



- (b) that the prohibition is in the public interest.
- (2) A prohibition under this section is in force until the conclusion of an investigation under section 30 or a hearing or investigation under section 33 or until the Director takes action under section 34.

### **32. Grounds for disciplinary action**

There are grounds for disciplinary action against a registered surveyor if the registered surveyor has –

- (a) acted contrary to the *Australian Consumer Law (Tasmania) Act 2010*; or
- (b) acted unlawfully, improperly, negligently or unfairly in the course of carrying on, or being employed or otherwise engaged in, the business of a registered surveyor; or
- (c) falsely certified in respect of a survey or plan; or
- (d) acted contrary to a direction issued under section 15; or
- (e) contravened a provision of this Act; or
- (f) contravened a condition of his or her registration imposed by the Director; or
- (g) gained registration as a result of a false or misleading statement; or

- (h) been found guilty of an offence involving fraud or dishonesty that is punishable on conviction by imprisonment for a term of 3 months or more.

**33. Application to determine grounds for disciplinary action**

On receipt of an application in writing from any person, the Director must determine whether there are grounds for disciplinary action against a registered surveyor in accordance with the application and, for that purpose, may conduct a hearing or such investigation as he or she thinks fit.

**34. Disciplinary action**

- (1) Where the Director determines that there are grounds for taking disciplinary action against a registered surveyor, the Director may, by order, do one or more of the following:
  - (a) prohibit the registered surveyor from carrying on business as a registered surveyor;
  - (b) prohibit the registered surveyor from being employed or otherwise engaged in the business of a registered surveyor;
  - (c) reprimand the registered surveyor;
  - (d) require the registered surveyor to attend a specified educational course or provide evidence of self-education;

*Surveyors Act 2002*  
*Act No. 36 of 2002*

- (e) require the registered surveyor to submit surveys for inspection by the Surveyor-General, at the surveyor's expense, prior to lodgement with the relevant authority;
  - (f) require the registered surveyor, at his or her own expense, to have surveys certified by another registered surveyor prior to lodgement;
  - (g) in the case of a land surveyor, require the surveyor to be re-accredited by the prescribed institute;
  - (h) require the registered surveyor to pay the reasonable costs of the hearing or any investigation conducted for the purposes of the hearing, or both.
- (2) The Director may order that any disciplinary action under subsection (1) is to apply –
- (a) permanently; or
  - (b) for a specified period; or
  - (c) until the fulfilment of any conditions specified in the order; or
  - (d) until further order.
- (3) An order may provide that it is to have effect at a specified time and impose conditions as to the conduct of the registered surveyor who is subject to the order or that person's business until that time.

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 34

Part 5 – Complaints and Investigations

---

- (4) An order takes effect on the day on which it is served on the registered surveyor to whom it relates.
- (4A) The Director may publish the details and particulars of an order made under this section in relation to a registered surveyor.
- (4B) If, under subsection (4A), the Director publishes the details and particulars of an order made under this section, the Director –
  - (a) may withdraw the publication at the Director’s discretion if that publication is made in relation to an order under subsection (1)(a) or (b); or
  - (b) must withdraw the publication as soon as practicable after the end of the period of 3 years commencing on the date on which the publication was made if that publication is made in relation to an order under subsection (1)(c), (d), (e), (f), (g) or (h).
- (4C) Subsection (4B)(b) does not prevent the Director from withdrawing a publication specified in that paragraph before the expiry of the period referred to in that paragraph.
- (5) If an amount ordered to be paid by a registered surveyor as costs under subsection (1)(h) is not paid as directed by the order, that amount may be recovered by the Director as a debt due to the Crown in any court of competent jurisdiction.

**35. Ancillary powers of Director**

For the purpose of exercising his or her powers under this Part, the Director has the same powers as the court to administer an oath and compel the attendance of witnesses and production of documents.

**36. Contravention of order**

If a person carries on business as a registered surveyor in contravention of an order of the Director, the person is guilty of an offence.

Penalty: Fine not exceeding 350 penalty units and imprisonment for a term not exceeding 6 months.

**37. Appeal against determination or order to magistrate**

- (1) This section applies to a determination or order made by the Director before commencement of the *Magistrates Court (Administrative Appeals Division) Act 2001*.
- (2) A person who is aggrieved by a determination or order to which this section applies may appeal to a magistrate within 28 days after receiving notice of that determination or service of the order.
- (3) At the hearing of an appeal under this section, the magistrate may –

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 38

Part 5 – Complaints and Investigations

---

- (a) confirm the determination or order of the Director and direct that the determination or order is to take effect from a specified date; or
  - (b) set aside the determination or order of the Director; or
  - (c) set aside the determination or order of the Director and substitute another determination or order that the Director could have made.
- (4) Subject to this section, an appeal under this section is to be instituted, heard and determined as prescribed.

**38. Appeals to Magistrates Court (Administrative Appeals Division)**

On and after the commencement of the *Magistrates Court (Administrative Appeals Division) Act 2001* –

- (a) a person may not commence an appeal under section 37, but an appeal already commenced under that section may be continued and dealt with as if that Act had not commenced; and
- (b) a person aggrieved by a determination or order made by the Director may apply to the Magistrates Court (Administrative Appeals Division) for a review of the determination or order.

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**PART 6 – MISCELLANEOUS AND SUPPLEMENTAL**

**39. Review of decisions by Minister**

- (1) An application may be made to the Minister in accordance with the regulations for review of any decision of the Surveyor-General relating to the keeping of the register or the practice of a registered surveyor.
- (2) On a review, the Minister may affirm or set aside the decision of the Surveyor-General or vary it on such terms as the Minister thinks fit.
- (3) The Minister’s decision on the review is final.

**40. Survey examination**

- (1) A registering authority which may –
  - (a) examine, as to their adequacy for any legal purpose, any survey plans and associated documents lodged for registration; or
  - (b) require the correction of any identified errors or deficiency –

must advise the Surveyor-General of the results of the examination or requisition.

- (2) . . . . .

**41. Destruction of, damage to, &c., survey marks**

- (1) A person must not, without reasonable excuse, interfere with, change or remove a survey mark which complies with directions issued under section 15.

Penalty: Fine not exceeding 200 penalty units.

- (2) If a person is convicted of an offence against subsection (1), the court may order, in addition to any other penalty, that the person pay the reasonable cost of re-establishing the survey mark.

- (3) A person must not, with intent to mislead, falsely pretend that any thing is a survey mark which complies with directions issued under section 15.

Penalty: Fine not exceeding 200 penalty units.

- (4) Nothing in this section affects any civil liability that may exist apart from this section.

- (5) Nothing in this section prevents the removal of a temporary survey mark by, or under the supervision of, a registered surveyor if so required by law or if in accordance with any directions given by the Surveyor-General under this Act.

**42. Misleading survey marks**

The Surveyor-General, or a person authorised by him or her to do so, may remove, alter, deface or destroy a survey mark which, in the opinion of



the Surveyor-General, is so placed as to mislead any person.

**43. Protection from liability**

- (1) The Surveyor-General, Deputy Surveyor-General or a person acting under the Surveyor-General's direction or authority as provided in this Act, does not incur civil liability for an act or omission done honestly and without negligence for the purposes of this Act.
- (2) A liability that would, apart from this section, attach to the Surveyor-General, Deputy Surveyor-General or a person acting under the Surveyor-General's direction or authority as provided in this Act, attaches to the Crown.

**44. Prosecution for offence**

A prosecution for an offence under this Act –

- (a) may be instituted by an authorised officer; and
- (b) must be commenced within 3 years after the commission of the alleged offence and within 6 months after the authorised officer first obtains knowledge of the alleged offence.

**45. Evidentiary value of certificates**

- (1) In any proceeding, a certificate of registration is evidence of the matters stated in it and a

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 46

Part 6 – Miscellaneous and Supplemental

---

certificate signed by or on behalf of the Surveyor-General stating that on a date or during a period stated in the certificate a person named in the certificate was or was not registered is evidence of the matters so stated.

- (2) Unless the contrary is proved, a document that purports to be a certificate issued under the Act is taken to be such a certificate.

**46. Regulations**

- (1) The Governor may make regulations for the purpose of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may provide for –
  - (a) determining the evidence to be produced and conditions to be fulfilled by a person applying for registration as a land surveyor under this Act; and
  - (b) prescribing the course of study, professional practice, conditions of service and training and examination of persons seeking to establish their competency to practise as a registered land surveyor under this Act; and
  - (c) determining the role and responsibilities that may be assumed by the prescribed institute in the training, examination and accreditation of persons seeking to establish their competency to practise as

*Surveyors Act 2002*  
*Act No. 36 of 2002*

- 
- a registered land surveyor under this Act;  
and
- (d) determining the role and responsibilities to be assumed by a supervising surveyor under any professional training agreement that may be specified in the regulations; and
  - (e) determining the certificates of examinations and professional competency that will be recognised as a substitute for the examinations specified in the regulations; and
  - (f) determining any limitation, condition or restriction that may, in such circumstances and for such term as may be specified in the regulations, be imposed on a competent surveyor seeking to practise as a registered land surveyor; and
  - (g) fees and charges payable in respect of any matter under the Act.
- (3) Before making any regulations relating to the qualifications and training necessary for registration as a land surveyor, the Governor must seek and take into account any advice given –
- (a) by the prescribed institute; or
  - (b) if the prescribed institute fails to provide that advice on request by the Minister, by a committee of appropriately qualified

*Surveyors Act 2002*  
*Act No. 36 of 2002*

s. 46A

Part 6 – Miscellaneous and Supplemental

---

and experienced land surveyors convened by the Minister for the purpose.

- (4) In giving advice for the purposes of subsection (3), the prescribed institute, or the appointed advisory committee, must –
- (a) consult with relevant national professional institutions and coordinating committees; and
  - (b) seek to maintain consistency with any established national competency standards, minimum qualifications and training requirements for professional land surveyors.

**46A. Repeal of regulations postponement**

- (1) In this section –

*regulations* means the *Surveyors Regulations 2014*.

- (2) The repeal of the regulations that, but for this section, would have, in accordance with section 11 of the *Subordinate Legislation Act 1992*, been effected on 10 December 2024 is postponed until 10 December 2026.
- (3) Subsection (2) does not prevent the regulations from being rescinded before 10 December 2026.

*Surveyors Act 2002*  
*Act No. 36 of 2002*

**47. Savings and transitional**

The savings and transitional provisions specified in Schedule 1 have effect.

**48. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Primary Industries, Water and Environment; and
- (b) the department responsible to the Minister for Primary Industries, Water and Environment in relation to the administration of this Act is the Department of Primary Industries, Water and Environment.

49. *The amendments effected by this section have been incorporated into the authorised version of the Land Surveyors Act 1909.*

**SCHEDULE 1 – SAVINGS AND TRANSITIONAL  
PROVISIONS**

Section 47

**1. Savings provisions relating to repealed Act**

- (1) A reference in an enactment or other instrument to the repealed Act is to be construed as a reference to this Act unless the contrary intention appears.
- (2) Except as provided expressly or by necessary implication in this Act –
  - (a) all things and circumstances appointed or created by or under the repealed Act or existing or continuing under that Act immediately before the commencement day continue, subject to this Act, to have the same status, operation and effect as they respectively would have had if this Act had not been enacted; and
  - (b) without limiting paragraph (a), this Act does not disturb the continuity of status, operation or effect of –
    - (i) an order or decision of the court or of any other court; or
    - (ii) an enquiry, proceeding, action, appeal, liability, right or other matter or thing made, done, issued, granted, given, existing or

continuing under the repealed Act before the commencement day.

- (3) Nothing in subclause (1) or (2) derogates from section 16 of the *Acts Interpretation Act 1931*.

## **2. Saving for certain orders**

Where an order was in force under the repealed Act immediately before the commencement day suspending a person's registration as a land surveyor, the order has effect according to its tenor as if it were an order of the court prohibiting the person from carrying on business as a registered surveyor for the period of the prohibition.

## **3. References to registered surveyors, &c.**

A reference in an Act or other instrument to a registered surveyor, a land surveyor or an authorised surveyor is taken to be a reference to a registered land surveyor acting lawfully under this Act.

## **4. Distribution of funds of Surveyors' Board**

- (1) As soon as practicable after the commencement day, the Surveyor-General must pay the money standing to the credit of the Board to an account in the Special Deposits and Trust Fund.
- (2) The Surveyor-General must, after taking into account any recommendations made by the Director or an institution, pay that money to any

person or body so as best to foster and control the practice of registered surveyors.

**5. Saving for appeals**

Where –

- (a) the Board has imposed a penalty on a surveyor under section 18 of the repealed Act following an inquiry under that section; and
- (b) the surveyor was, immediately before the commencement day, entitled to appeal to the Supreme Court under section 20 of the repealed Act –

the appeal may be heard and determined by the Magistrates Court as if the decision of the Board were a decision of the Director.



*Surveyors Act 2002*  
*Act No. 36 of 2002*

sch. 1

**NOTES**

The foregoing text of the *Surveyors Act 2002* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 5 July 2024 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Surveyors Act 2002</i>	No. 36 of 2002	1.1.2003
<i>Australian Consumer Law (Tasmania) (Consequential Amendments) Act 2010</i>	No. 41 of 2010	1.1.2011
<i>Surveyors Amendment Act 2014</i>	No. 23 of 2014	9.12.2014
<i>Surveyors Amendment Act 2024</i>	No. 4 of 2024	5.7.2024

**TABLE OF AMENDMENTS**

Provision affected	How affected
Section 3	Amended by No. 41 of 2010, s. 22, No. 23 of 2014, s. 4 and No. 4 of 2024, s. 4
Section 4	Amended by No. 23 of 2014, s. 5
Section 5	Amended by No. 23 of 2014, s. 6
Section 5A	Inserted by No. 23 of 2014, s. 7
Section 7	Substituted by No. 23 of 2014, s. 8
Section 8	Substituted by No. 23 of 2014, s. 8
Section 8A	Inserted by No. 23 of 2014, s. 8
Section 8B	Inserted by No. 23 of 2014, s. 8
Section 8C	Inserted by No. 23 of 2014, s. 8
Section 9	Amended by No. 41 of 2010, s. 23, No. 23 of 2014, s. 9 and No. 4 of 2024, s. 5
Section 10	Amended by No. 23 of 2014, s. 10
Section 10A	Inserted by No. 23 of 2014, s. 11
Section 11	Amended by No. 23 of 2014, s. 12
Section 12	Amended by No. 23 of 2014, s. 13
Section 15	Amended by No. 23 of 2014, s. 14
Section 16	Amended by No. 4 of 2024, s. 6
Section 19	Amended by No. 23 of 2014, s. 15
Section 20	Amended by No. 23 of 2014, s. 16
Section 23	Amended by No. 23 of 2014, s. 17

*Surveyors Act 2002*  
*Act No. 36 of 2002*

**sch. 1**

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Provision affected	How affected
Section 23A	Inserted by No. 23 of 2014, s. 18
Section 24	Amended by No. 23 of 2014, s. 19
Section 24A	Inserted by No. 23 of 2014, s. 20
Section 25	Amended by No. 23 of 2014, s. 21
Section 26	Amended by No. 23 of 2014, s. 22
Section 27	Amended by No. 23 of 2014, s. 23
Section 30	Amended by No. 41 of 2010, s. 24
Section 31A	Inserted by No. 23 of 2014, s. 24
Section 32	Amended by No. 41 of 2010, s. 25 Substituted by No. 23 of 2014, s. 25
Section 34	Amended by No. 23 of 2014, s. 26 and No. 4 of 2024, s. 7
Section 40	Amended by No. 23 of 2014, s. 27
Section 41	Amended by No. 23 of 2014, s. 28
Section 43	Amended by No. 23 of 2014, s. 29
Section 46	Amended by No. 23 of 2014, s. 30
Section 46A	Inserted by No. 4 of 2024, s. 8